STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

MARK SIROKY, Charging Party, v. CITY OF FOLSOM, Respondent.	Case No. SA-CE-54-M PERB Decision No. 1539-M June 26, 2003

Appearance: Mark Siroky, on his own behalf.

Before Baker, Whitehead and Neima, Members.

DECISION

WHITEHEAD, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by Mark Siroky (Siroky) of a Board agent's dismissal (attached) of his unfair practice charge. The charge, as amended, alleged that the City of Folsom (City) violated the Meyers-Milias-Brown Act (MMBA)[1] by retaliating against him, an alleged violation of MMBA section 3506 and Government Code sections 53298(a) and 53296(j). Siroky alleges that the City retaliated against him by its attempt to collect a judgment for attorneys' fees shortly after Siroky had filed an unfair practice charge against the City. The Board agent dismissed the charge on the basis that it did not state a prima facie case.

[1]MMBA is codified at Government Code section 3500 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code.

After reviewing the entire file, including the charge and amended charge, the warning and dismissal letters, and Siroky's appeal, the Board affirms the Board agent's dismissal consistent with the discussion below.

DISCUSSION

The alleged violation, which occurred in 2002**,** involved the City's demand that Siroky pay an attorney's fee judgment allegedly because he had filed an unfair practice charge against the City a few months earlier. Under provisions of a July 1998 proposed settlement agreement between Siroky, the City and other unnamed individuals, Siroky, inter alia, was to resign effective September 1998 and to abandon his appeal of the court-ordered attorney fee award. Siroky alleges that he fulfilled his obligations under the proposed agreement. However, Siroky did not provide evidence that the settlement agreement was ever executed and that the City was thereby barred from pursuing satisfaction of the attorney fee award.

Under MMBA section 3501(d), a "public employee" is defined as:

> (d) 'Public employee' means any person employed by any public agency, including employees of the fire departments and fire services of counties, cities, cities and counties, districts, and other political subdivisions of the state, excepting those persons elected by popular vote or appointed to office by the Governor of this state. [Emphasis added.]

"Public agency" is defined in MMBA section 3501(c) as:

> (c) Except as otherwise provided in this subdivision, 'public agency' means every governmental subdivision, every district, every public and quasi-public corporation, every public agency and public service corporation and every town, city, county, city and county and municipal corporation, whether incorporated or not and whether chartered or not. As used in this chapter, 'public agency' does not mean a school district or a county board of education or a county superintendent of schools or a personnel commission in a school district having a merit system as provided in Chapter 5 (commencing with Section 45100) of Part 25 and

> Chapter 4 (commencing with Section 88000) of Part 51 of the Education Code or the State of California. (Emphasis added.)

MMBA section 3506 prohibits:

> Public agencies and employee organizations shall not interfere with, intimidate, restrain, coerce or discriminate against public employees because of their exercise of their rights under Section 3502. [Emphasis added.]

In his appeal, Siroky asserts that he is an employee under the MMBA since he was employed with the State of California in 2002 when the alleged protected activity and adverse action occurred, and that he otherwise stated a prima facie case for retaliation by the City. But he also acknowledges that he has not been employed with the City since 1998 and has provided no evidence that he has performed services for the City since that time.[2]

Siroky focuses on whether he qualifies as a "public employee" under the MMBA. The Board notes that: (1) Siroky was not employed by the City at the time the alleged unfair practice occurred; and (2) any purported nexus between his allegations and his previous employment relationship with the City appears too attenuated to qualify Siroky as a "public employee" under MMBA sections 3501(c), (d) and 3506 for purposes of this charge. (See Service Employees Internat. Union v. Superior Court (1982) 137 Cal.App.3d 320 [187 Cal.Rptr. 9]; see also, Monterey Peninsula Community College District (2002) PERB Decision No. 1492; California School Employees Association & its Chapter 245 (Waymire) (2002) PERB Decision No. 1493.)[3] However, even were Siroky to qualify as a "public employee"

---

[2]The dismissal letter states that Siroky informed the Board agent of his employment with the State of California during a July 30, 2002 telephone conversation.

[3]When interpreting the MMBA, it is appropriate to take guidance from cases interpreting the National Labor Relations Act and California labor relations statutes with

with standing to file a charge under the MMBA, dismissal of his charge would be appropriate because, as the Board agent correctly determined, he failed to state a prima facie case.

Accordingly, the Board affirms the dismissal of Siroky's unfair practice charge.

ORDER

The unfair practice charge in Case No. SA-CE-54-M is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Members Baker and Neima joined in this decision.

---

parallel or similar provisions. (Fire Fighters Union v. City of Vallejo (1974) 12 Cal.3d 608 [116 Cal.Rptr. 507].)

Dismissal Letter

September 16, 2002

Mark Siroky
P O Box 348511
Sacramento, CA 95834

Re: Mark Siroky v. City of Folsom
Unfair Practice Charge No. SA-CE-54-M
DISMISSAL LETTER

Dear Mr. Siroky:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on April 30, 2002. You allege that the City of Folsom violated the Meyers-Milias-Brown Act (MMBA)[1] by retaliating against you for filing an unfair practice charge with PERB.

I indicated to you in my attached letter dated July 29, 2002, that the above-referenced charge did not state a prima facie case. You were advised that if there were any factual inaccuracies or additional facts which would correct the deficiencies explained in that letter, you should amend the charge. You were further advised that, unless you amended the charge to state a prima facie case or withdrew it prior to August 5, 2002 the charge would be dismissed. Because you worked out of town for much of the month of August, you requested to amend this charge during the first week in September. I agreed and received the amended charge on September 10, 2002.

You allege that the City of Folsom retaliated against you for filing an unfair practice charge with PERB in January of 2002 (SA-CE-33-M). The alleged retaliation took place in April 2002 when the Northern California Self Insurance Fund sent you a letter, listing the City of Folsom as the insured party. The letter requested payment of $18,8088.61 for the satisfaction of judgment for a 1998 court order for Defendant's Motion for Recovery of Attorney's Fees.

In the original charge I explained that based on the precedent of the Board, to establish a prima facie case of discrimination in violation of Government Code section 3506 and PERB Regulation 32603(a), the charging party must show that: (1) the employee exercised rights under MMBA; (2) the employer had knowledge of the exercise of those rights; and (3) the employer imposed or threatened to impose reprisals, discriminated or threatened to

[1] The MMBA is codified at Government Code section 3500 et seq. The text of the MMBA and the Board's Regulations may be found on the Internet at www.perb.ca.gov.

discriminate, or otherwise interfered with, restrained or coerced the employee because of the exercise of those rights. (Campbell Municipal Employees Association v. City of Campbell (1982) 131 Cal.App.3d 416 (Campbell); San Leandro Police Officers Association v. City of San Leandro (1976) 55 Cal.App.3d 553.)

Although the timing of the employer's adverse action in close temporal proximity to the employee's protected conduct is an important factor, it does not, without more, demonstrate the necessary connection or "nexus" between the adverse action in protected conduct. (Moreland Elementary School District (1982) PERB Decision No. 227.) Facts establishing one or more of the following nexus factors should be present: (1) the employer's disparate treatment of the employee (Campbell, supra); (2) the employer's departure from established procedures and standards when dealing with the employee (San Leandro Police Officers Association, supra.); (3) the employer's inconsistent or contradictory justifications for its actions (San Leandro Police Officers Association, supra.); (4) the employer's cursory investigation of the employee's misconduct; (5) the employer's failure to offer the employee justification at the time it took action or the offering of exaggerated, vague, or ambiguous reasons; or (6) employer animosity towards union activists (San Leandro Police Officers Association, supra; Los Angeles County Employees Association v. County of Los Angeles (1985) 168 Cal.App.3d 683.).

In the letter of July 29, 2002, I explained to you that you do not meet the requisite criteria for establishing a discrimination/retaliation violation of the MMBA. You did not establish that you are an employee for the purposes of the MMBA; that the City's insurance company's attempt to have you satisfy a four year old judgment was an adverse action; or that the City attempted to collect the judgment from you because you filed the January 2002 charge with PERB. In the amended charge, you addressed each of these factors by refuting my analysis. You do not however, provide any additional facts.

Public Employee

Government Code section 3519(d) defines "public employee" as:

> As used in this chapter:
>
> (d) "Public employee" means any person employed by any public agency, including employees of the fire departments and fire services of counties, cities, cities and counties, districts, and other political subdivisions of the state, excepting those persons elected by popular vote or appointed to office by the Governor of this state.

In the warning letter I explained that because you left your employment with the City of

Folsom in 1998, you were not a public employee as defined above and thus did not have standing to file this unfair practice charge with PERB.

In the amended charge you argue that because Government Code section 3501(d) does not stipulate that an employee must continue to be employed with the same agency against whom he or she has filed a charge, and because you are currently employed by "a large public agency," you are a public employee as defined by that section of the Government Code.

During a phone conversation on July 30, 2002 you explained that you currently work for the State of California. As an employee of the State of California, you may fall under the statutory definition of "State employee" found in the Dills Act.[2] As such you would have standing to file an unfair practice charge against the State of California as your current employer. However, you have not been a "public employee" as defined by 3501(d) since 1998, and as such do not have standing to file an unfair practice charge alleging that the City violated of the MMBA by retaliating against you in 2002 long after your employment with the City ended.

Further, as stated in the July 29 letter, even if you were a "public employee" as defined by Government Code section 3501(d), you have not established the requisite factors for a retaliation violation of the MMBA.

Adverse Action

In the July 29 letter I explained that you had not established that the City's insurance company's attempt to have you satisfy the judgment was an adverse action. In determining

---

[2] Government Code 3513(c) provides:

> (c) "State employee" means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the State Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, supervisory employees, employees of the Department of Personnel Administration, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than the auditing staff, professional employees in the Personnel/Payroll Services Division of the Controller's office engaged in technical or analytical duties in support of the state's personnel and payroll systems other than the training staff, employees of the Legislative Counsel Bureau, employees of the Bureau of State Audits, employees of the office of the Inspector General, employees of the board, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, and intermittent athletic inspectors who are employees of the State Athletic Commission.

whether prima facie evidence of an adverse action is established, the Board uses an objective test and will not rely upon the subjective reaction of the employee. (Newark Unified School District (1991) PERB Decision No. 864.) In Newark the Board stated:

> The test which must be satisfied is not whether the employee found the employer's action to be adverse, but whether a reasonable person under the circumstances would consider the action to have an adverse action on the employee's employment.

In the July 29 letter, I explained that because you were no longer working for the City it is not possible that a reasonable person under the circumstances would consider the City's actions to have an adverse action on your nonexistent employment. Further, even if you were an employee of the City, you have a legal duty pursuant to the motion for Recovery of Attorney's Fees to pay the $18,088.61 judgment. Despite all of your efforts, you and City have not reached a final settlement pursuant to the 1998 agreement and thus your obligation to pay the attorney's fees does not appear to have been discharged. As such, you can not argue that the City's request for payment is an adverse act.

In the amended charge, you cite Government Code section 53298(a) and 53296(j) in support of your contention that PERB should use the concept of "reprisal action" rather than "adverse action" when analyzing alleged violations of Government Code section 3506. Those two sections of the Government Code fall under the heading Local Agencies, Disclosure of Information and are not within the scope of PERB's jurisdiction. As such, your reliance on "reprisal action" is inapplicable to an allegation of discrimination or retaliation under the MMBA.

Nexus

Finally, you have not established a nexus between the alleged adverse action and your filing of the SA-CE-33-M. Although you establish temporal proximity between the filing of the charge in January 2002 and the request for the $18,000 April 2002, you have not established any other nexus factor.

In the amended charge you assert that I stated on page 2 of the July 29 letter that the City's attorney Frank Gumpert told your attorney Hope Elders the following:

> Mr. Gumpert presented to Ms. Elders that I had violated the agreement by filing the PERB charge and as a result they were now going to collect the money that they initially agreed to waive.

This is not what Ms. Elders told me during our phone call of July 15, 2002. As I stated in the July 29 letter:

> On July 15, 2002, I spoke with Ms. Elders. During that conversation, Ms. Elders stated that during a phone conversation with an attorney for the City of Folsom, Frank Gumpert, Mr. Gumpert said that it was the City's position that you had interfered with the City's attempts to settle the disputes between the parties and therefore they were not going to pay you the agreed upon $5,000. In addition, Mr. Gumpert told Ms. Elders that you violated the agreement between the parties by filing charges with PERB.

What Ms. Elders told me and what I conveyed to you in the July 29 letter was that the City would not pay you the $5,000 in back wages agreed to during the 1998 settlement talks because you interfered with the City's attempts to settle that dispute. There is nothing in my letter, nor did Ms. Elders tell me that the City was attempting to collect the $18,000 judgement because you filed an unfair practice charge with PERB.

In addition, you state in the amended charge that at some unidentified time, Mr. Gumpert told Ms. Elders that the City is no longer interested in the agreement and will not mediate, negotiate, or arbitrate the matter. It is your opinion that the City wants to force a lengthy and expensive legal action in order to injure you financially. Even if Mr. Gumpert told Ms. Elders that the City is no longer interested in the agreement of 1998, this comment fails to satisfy any of the nexus factors listed above.

Therefore, because you have not established a prima facie discrimination/retaliation violation of the MMBA, I am dismissing the charge based on the facts and reasons above, as well as those contained in my July 29, 2002 letter.

Right to Appeal

Pursuant to PERB Regulations,[3] you may obtain a review of this dismissal of the charge by filing an appeal to the Board itself within twenty (20) calendar days after service of this dismissal. (Regulation 32635(a).) Any document filed with the Board must contain the case name and number, and the original and five (5) copies of all documents must be provided to the Board.

A document is considered "filed" when actually received before the close of business (5 p.m.) on the last day set for filing or when mailed by certified or Express United States mail, as shown on the postal receipt or postmark, or delivered to a common carrier promising overnight

[3] PERB's Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

delivery, as shown on the carrier's receipt, not later than the last day set for filing. (Regulations 32135(a) and 32130.)

A document is also considered "filed" when received by facsimile transmission before the close of business on the last day for filing together with a Facsimile Transmission Cover Sheet which meets the requirements of Regulation 32135(d), provided the filing party also places the original, together with the required number of copies and proof of service, in the U.S. mail. (Regulations 32135(b), (c) and (d); see also Regulations 32090 and 32130.)

The Board's address is:

Public Employment Relations Board
Attention: Appeals Assistant
1031 18th Street
Sacramento, CA 95814-4174
FAX: (916) 327-7960

If you file a timely appeal of the refusal to issue a complaint, any other party may file with the Board an original and five copies of a statement in opposition within twenty (20) calendar days following the date of service of the appeal. (Regulation 32635(b).)

Service

All documents authorized to be filed herein must also be "served" upon all parties to the proceeding, and a "proof of service" must accompany each copy of a document served upon a party or filed with the Board itself. (See Regulation 32140 for the required contents and a sample form.) The document will be considered properly "served" when personally delivered or deposited in the first-class mail, postage paid and properly addressed. A document filed by facsimile transmission may be concurrently served via facsimile transmission on all parties to the proceeding. (Regulation 32135(c).)

Extension of Time

A request for an extension of time, in which to file a document with the Board itself, must be in writing and filed with the Board at the previously noted address. A request for an extension must be filed at least three (3) calendar days before the expiration of the time required for filing the document. The request must indicate good cause for and, if known, the position of each other party regarding the extension, and shall be accompanied by proof of service of the request upon each party. (Regulation 32132.)

Final Date

If no appeal is filed within the specified time limits, the dismissal will become final when the time limits have expired.

Sincerely,

ROBERT THOMPSON
General Counsel

By _____
Marie A. Nakamura
Regional Attorney

Attachment

cc: David Devine

Warning Letter

July 29, 2002

Mark Siroky
P O Box 348511
Sacramento, CA 95834

Re: Mark Siroky v. City of Folsom
Unfair Practice Charge No. SA-CE-54-M
WARNING LETTER

Dear Mr. Siroky:

The above-referenced unfair practice charge was filed with the Public Employment Relations Board (PERB or Board) on April 30, 2002. You allege that the City of Folsom violated the Meyers-Milias-Brown Act (MMBA)[1] by retaliating against you for filing an unfair practice charge with PERB.

Facts

In September 1990, you were hired as a Junior Engineer with the City of Folsom and were represented by the International Union of Operating Engineers, Local 39.

In July 1996, IUOE filed several grievances on your behalf, one of which sought compensation for your working out-of-class. In July 1998, the grievances were consolidated and brought before an arbitrator. Prior to the arbitration hearing, the Union and the City negotiated a settlement. You, as well as representatives of the City and IUOE, met with the arbitrator and a court reporter. On the record the Union's attorney recited the terms of the settlement agreement. All parties agreed on record to the terms of the settlement. As part of the settlement the City agreed to pay you $5,000 for working out of class. Also, as part of the settlement, you voluntarily resigned from your employment with the City, withdrew all pending grievances and lawsuits and signed a written agreement.

Since July 1998, you have signed three settlement agreements, all of which comply with the terms of the terms of the agreement of record. Most recently on September 5, 2001, you signed an agreement drafted by the union which follows the language of the 1998 agreement exactly. However, the City refuses to comply with all of these agreements and has not yet paid you. Instead, the City drafted a different settlement agreement, which changed the terms of the settlement.[2]

[1] The MMBA is codified at Government Code section 3500 et seq. The text of the MMBA and the Board's Regulations may be found on the Internet at www.perb.ca.gov.

[2] These facts were contained in unfair practice charge SA-CE-33-M.

The verbal settlement agreement of July 1998 provides in part on page 6:

> In addition, Mr. Siroky, through counsel, will submit a voluntary dismissal, with prejudice, of the judgment of attorney's fees and costs that is presently on appeal.

The verbal settlement agreement of July 1998 states on page 7:

> The City will prepare and file and serve a satisfaction of judgment on the outstanding attorney's fees and cost adjustments.

On January 25, 2002, you filed unfair practice charge SA-CE-33-M alleging that the City refused to pay you the $5,000 under the settlement because of your exercise of protected conduct. I dismissed the charge on May 8, 2002. You are appealing the dismissal of that charge.

On April 15, 2002, the Northern California Cities Self Insurance Fund sent you a letter. The letter lists the insured party as the City of Folsom and states in part:

> Enclosed[3] is a copy of the Order RE: Defendant's Motion for Recovery of Attorney Fees endorsed by the Deputy Clerk of the State of California for the County of Sacramento in the amount of **$18,8088.61**.
>
> Please submit your payment immediately for the full amount of **$18,8088.61**. Make your payment payable to the City of Folsom and return it to me in the enclosed return envelope. (Emphasis in original.)
>
> . . . . . .

In an effort to resolve your disputes with the City, you hired an attorney, Hope Elders. On July 15, 2002, I spoke with Ms. Elders. During that conversation, Ms. Elders stated that during a phone conversation with an attorney for the City of Folsom, Frank Gumpert, Mr. Gumpert said that it was the City's position that you had interfered with the City's attempts to settle the disputes between the parties and therefore they were not going to pay you the agreed upon $5,000. In addition, Mr. Gumpert told Ms. Elders that you violated the agreement between the parties by filing charges with PERB.

---

[3] Although you did not supply a copy of the Defendant's motion for Recovery of Attorney Fees, a copy of the motion was supplied by Respondent in SA-CE-33-M. The motion states in part on page 2 at paragraph 2 that, "Defendants' Motion for Recovery of Attorneys' Fees is GRANTED in the amount of $18,088.61…"

Discussion

This charge as written fails to establish a prima facie violation of the MMBA.

To establish a prima facie case of discrimination in violation of Government Code section 3506 and PERB Regulation 32603(a), the charging party must show that: (1) the employee exercised rights under MMBA; (2) the employer had knowledge of the exercise of those rights; and (3) the employer imposed or threatened to impose reprisals, discriminated or threatened to discriminate, or otherwise interfered with, restrained or coerced the employee because of the exercise of those rights. (Campbell Municipal Employees Association v. City of Campbell (1982) 131 Cal.App.3d 416 (Campbell); San Leandro Police Officers Association v. City of San Leandro (1976) 55 Cal.App.3d 553.)

Although the timing of the employer's adverse action in close temporal proximity to the employee's protected conduct is an important factor, it does not, without more, demonstrate the necessary connection or "nexus" between the adverse action in protected conduct. (Moreland Elementary School District (1982) PERB Decision No. 227.) Facts establishing one or more of the following nexus factors should be present: (1) the employer's disparate treatment of the employee (Campbell, supra); (2) the employer's departure from established procedures and standards when dealing with the employee (San Leandro Police Officers Association, supra.); (3) the employer's inconsistent or contradictory justifications for its actions (San Leandro Police Officers Association, supra.); (4) the employer's cursory investigation of the employee's misconduct; (5) the employer's failure to offer the employee justification at the time it took action or the offering of exaggerated, vague, or ambiguous reasons; or (6) employer animosity towards union activists (San Leandro Police Officers Association, supra; Los Angeles County Employees Association v. County of Los Angeles (1985) 168 Cal.App.3d 683.).

You do not meet the requisite criteria for establishing a discrimination/retaliation violation of the MMBA.

First, because you are not an employee for purposes of the MMBA, you cannot file charges with PERB. Government Code section 3501(d) defines “public employee” as:

> As used in this chapter:
>
> (d) "Public employee" means any person employed by any public agency, including employees of the fire departments and fire services of counties, cities, cities and counties, districts, and other political subdivisions of the state, excepting those persons elected by popular vote or appointed to office by the Governor of this state.

PERB Regulation 32602 provides:

> Alleged violations of MMBA or local rules, EERA, Ralph C. Dills Act or HEERA shall be processed as unfair practice charges except as otherwise provided in these regulations. Such unfair practice charges may be filed by an employee, employee organization, or employer against an employee organization or employer.

You must be an employee, employee organization, or an employer to file unfair practice charges. You left employment with the City in 1998, nearly four years prior to the filing of this charge, and are thus not a "public employee" as defined above, and have no standing to file unfair practice charges with PERB.[4]

Second, even if you were considered an employee for purposes of this charge, you establish only some of the factors required to establish a retaliation violation of the MMBA. You exercised rights guaranteed under the Act when you filed the charge SA-CE-33-M with PERB in January 2002. The City as Respondent in that charge was aware of your protected conduct.

However, you have not established that the City's insurance company's attempt to have you satisfy a four year old judgment was adverse action. In determining whether prima facie evidence of an adverse action is established, the Board uses an objective test and will not rely upon the subjective reaction of the employee. (Newark Unified School District (1991) PERB Decision No. 864.) In Newark the Board stated:

> The test which must be satisfied is not whether the employee found the employer's action to be adverse, but whether a reasonable person under the circumstances would consider the action to have an adverse action on the employee's employment.

As stated above, you are not an employee under the MMBA and thus it is not possible that a reasonable person under the circumstances would consider the City's actions to have an adverse action on your employment.

It should also be noted that even if you were an employee of the City, you have a legal duty pursuant to the motion for Recovery of Attorney's Fees to pay the $18,088.61 judgment. Since you and City have not reached a final settlement pursuant to the 1998 agreement, your obligation to pay the attorney's fees does not appear to have been discharged. As such, you can not argue that the City's request for payment is an adverse act. [5]

---

[4] It should be noted that because the allegation in this charge differs from the allegations contained in charge SA-CE-33-M, your status as an employee was not in question in the other charge. In the other charge you alleged that you were being retaliated against for exercising protected conduct (filing grievances) while an employee of the City.

[5] For purposes of this letter I am assuming that Northern California Cities Self Insurance Fund sent you the April 15, 2002 letter at the request of the City and that therefore the actions of the Insurance Fund is attributable to the employer.

Finally, if sending you the notice were an adverse action, you have not shown that the City took this action "because of" your protected activity.

Although you establish temporal proximity between the filing of SA-CE-33-M and the letter from the Northern California Cities Self Insurance Fund, you have not established any other "nexus" factor listed above.

For these reasons the charge, as presently written, does not state a prima facie case. If there are any factual inaccuracies in this letter or additional facts that would correct the deficiencies explained above, please amend the charge. The amended charge should be prepared on a standard PERB unfair practice charge form, clearly labeled First Amended Charge, contain all the facts and allegations you wish to make, and be signed under penalty of perjury by the charging party. The amended charge must have the case number written on the top right hand corner of the charge form. The amended charge must be served on the respondent's representative and the original proof of service must be filed with PERB. If I do not receive an amended charge or withdrawal from you before Monday, August 5, 2002, I shall dismiss your charge. If you have any questions, please call me at the above telephone number.

Sincerely,

Marie A. Nakamura
Regional Attorney

MAN